

105TH CONGRESS
1ST SESSION

H. R. 2458

To provide new authority to the Secretary of Agriculture and the Secretary of the Interior to safeguard communities, lives, and property from catastrophic wildfire by eliminating hazardous fuels buildup, and to undertake other forest management projects to protect noncommodity resources, on Federal lands where wildlands abut, or are located in close proximity to, urban areas.

IN THE HOUSE OF REPRESENTATIVES

SEPTEMBER 11, 1997

Mrs. CHENOWETH (for herself, Mr. HERGER, and Mr. BOB SCHAFER of Colorado) introduced the following bill; which was referred to the Committee on Agriculture, and in addition to the Committee on Resources, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned

A BILL

To provide new authority to the Secretary of Agriculture and the Secretary of the Interior to safeguard communities, lives, and property from catastrophic wildfire by eliminating hazardous fuels buildup, and to undertake other forest management projects to protect noncommodity resources, on Federal lands where wildlands abut, or are located in close proximity to, urban areas.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

1 **SECTION 1. SHORT TITLE; TABLE OF CONTENTS.**

2 (a) SHORT TITLE.—This Act may be cited as the
 3 “Community Protection and Hazardous Fuels Reduction
 4 Act of 1997”.

5 (b) TABLE OF CONTENTS.—The table of contents of
 6 this Act is as follows:

Sec. 1. Short title; table of contents.
 Sec. 2. Findings and purpose.
 Sec. 3. Definitions.

**TITLE I—MANAGEMENT OF WILDLAND/URBAN INTERFACE
 AREAS**

Sec. 101. Identification of wildland/urban interface areas.
 Sec. 102. Contracting to reduce hazardous fuels and undertake forest manage-
 ment projects in wildland/urban interface areas.
 Sec. 103. Monitoring requirements.
 Sec. 104. Reporting requirements.
 Sec. 105. Termination of authority.

**TITLE II—FIRE DANGER REDUCTION BY REMOVAL OF
 GRASSES AND FORBS**

Sec. 201. Removal of excess levels of grasses and forbs.

TITLE III—MISCELLANEOUS PROVISIONS

Sec. 301. Regulations.
 Sec. 302. Authorization of appropriations.

7 **SEC. 2. FINDINGS AND PURPOSE.**

8 (a) FINDINGS.—The Congress finds the following:

9 (1) Management of Federal lands has been
 10 characterized by large cyclical variations in fire sup-
 11 pression policies, timber harvesting levels, and the
 12 attention paid to commodity and noncommodity val-
 13 ues.

14 (2) Forests on Federal lands are experiencing
 15 significant disease epidemics and insect infestations.

1 (3) The combination of inconsistent manage-
2 ment and natural effects has resulted in a hazardous
3 fuels buildup on Federal lands that threatens cata-
4 strophic wildfire.

5 (4) While the long-term effect of catastrophic
6 wildfire on forests and forest systems is a matter of
7 debate, there should be no question that catastrophic
8 wildfire must be prevented in areas of the Federal
9 lands where wildlands abut, or are located in close
10 proximity to, communities, residences, and other pri-
11 vate and public facilities on non-Federal lands.

12 (5) Wildfire resulting from hazardous fuels
13 buildup in such wildland/urban interface areas
14 threatens the destruction of communities, puts
15 human life and property at risk, threatens commu-
16 nity water supplies with erosion that follows wildfire,
17 destroys wildlife habitat, and damages ambient air
18 quality.

19 (6) The Secretary of Agriculture and the Sec-
20 retary of the Interior must assign a high priority
21 and undertake aggressive management to achieve
22 the elimination of hazardous fuel buildup and reduc-
23 tion of the risk of wildfire to the wildland/urban
24 interface areas on Federal lands. Protection of
25 human life and property, including water supplies

1 and ambient air quality, must be given the highest
2 priority.

3 (7) The noncommodity resources, including ri-
4 parian zones and wildlife habitats, in wildland/urban
5 interface areas on Federal lands which must be pro-
6 tected to provide recreational opportunities, clean
7 water, and other amenities to neighboring commu-
8 nities and the public suffer from a backlog of un-
9 funded forest management projects designed to pro-
10 vide such protection.

11 (8) In a period of fiscal austerity characterized
12 by shrinking budgets and personnel levels, Congress
13 must provide the Secretary of Agriculture and the
14 Secretary of the Interior with innovative tools to ac-
15 complish the required reduction in hazardous fuels
16 buildup and undertake other forest management
17 projects in the wildland/urban interface areas on the
18 Federal lands at least cost.

19 (b) PURPOSE.—The purpose of this Act is to provide
20 new authority and innovative tools to the Secretary of Ag-
21 riculture and the Secretary of the Interior to safeguard
22 communities, lives, and property by reducing or eliminat-
23 ing the threat of catastrophic wildfire, and to undertake
24 needed forest management projects, in wildland/urban
25 interface areas on Federal lands.

1 **SEC. 3. DEFINITIONS.**

2 As used in this Act:

3 (1) **FEDERAL LANDS.**—The term “Federal
4 lands” means—

5 (A) federally managed lands administered
6 by the Bureau of Land Management under the
7 Secretary of the Interior; and

8 (B) federally managed lands administered
9 by the Secretary of Agriculture.

10 (2) **FOREST MANAGEMENT PROJECT.**—The
11 term “forest management project” means a project,
12 including riparian zone enhancement, habitat im-
13 provement, forage removal by livestock grazing or
14 mechanical means, and soil stabilization or other
15 water quality improvement project, designed to pro-
16 tect one or more noncommodity resources on or in
17 close proximity to Federal lands.

18 (3) **LAND MANAGEMENT PLAN.**—The term
19 “land management plan” means the following:

20 (A) With respect to Federal lands de-
21 scribed in paragraph (1)(A), a land use plan
22 prepared by the Bureau of Land Management
23 pursuant to section 202 of the Federal Land
24 Policy and Management Act of 1976 (43 U.S.C.
25 1712), or other multiple-use plan currently in
26 effect.

1 (B) With respect to Federal lands de-
2 scribed in paragraph (1)(B), a land and re-
3 source management plan (or if no final plan is
4 in effect, a draft land and resource manage-
5 ment plan) prepared by the Forest Service pur-
6 suant to section 6 of the Forest and Rangeland
7 Renewable Resources Planning Act of 1974 (16
8 U.S.C. 1604).

9 (4) SECRETARY CONCERNED.—The term “Sec-
10 retary concerned” means—

11 (A) with respect to the Federal lands de-
12 scribed in paragraph (1)(A), the Secretary of
13 the Interior; and

14 (B) with respect to the Federal lands de-
15 scribed in paragraph (1)(B), the Secretary of
16 Agriculture.

17 (5) WILDLAND/URBAN INTERFACE AREA.—The
18 term “wildland/urban interface area” means an area
19 of Federal land in close proximity to communities
20 and human habitations, such as homes, cabins, and
21 other property.

22 (6) CONGRESSIONAL COMMITTEES.—The term
23 “congressional committees” means the Committee
24 on Resources and the Committee on Agriculture of
25 the House of Representatives and the Committee on

1 Energy and Natural Resources and the Committee
 2 on Agriculture, Nutrition, and Forestry of the Sen-
 3 ate.

4 (7) HAZARDOUS FUELS BUILDUP.—The term
 5 “hazardous fuels buildup” means an accumulation of
 6 forage, woody debris, and predominantly dead and
 7 dying timber that has the likelihood of igniting.

8 **TITLE I—MANAGEMENT OF**
 9 **WILDLAND/URBAN INTER-**
 10 **FACE AREAS**

11 **SEC. 101. IDENTIFICATION OF WILDLAND/URBAN INTER-**
 12 **FACE AREAS.**

13 (a) ANNUAL IDENTIFICATION.—On or before Sep-
 14 tember 30 of each year, each District Manager of the Bu-
 15 reau of Land Management and each Forest Supervisor of
 16 the Forest Service shall identify those areas on Federal
 17 lands within the jurisdiction of the District Manager or
 18 Forest Supervisor that the District Manager or Forest Su-
 19 pervisor determines—

20 (1) meet the definition of wildland/urban inter-
 21 face areas; and

22 (2) have hazardous fuels buildups and other
 23 forest management needs that warrant the use of
 24 forest management projects as provided in section
 25 102.

1 (b) TREATMENT OF IDENTIFICATION PROCESS.—
 2 The identification of wildland/urban interface areas under
 3 subsection (a) that have hazardous fuels buildups and
 4 other forest management needs that warrant the use of
 5 forest management projects as provided in section 102
 6 shall not be considered to be agency action for purposes
 7 of paragraph (2)(A) or (2)(E) of section 102 of the Na-
 8 tional Environmental Policy Act of 1969 (42 U.S.C.
 9 4332).

10 **SEC. 102. CONTRACTING TO REDUCE HAZARDOUS FUELS**
 11 **AND UNDERTAKE FOREST MANAGEMENT**
 12 **PROJECTS IN WILDLAND/URBAN INTERFACE**
 13 **AREAS.**

14 (a) CONTRACTING AUTHORITY.—

15 (1) IN GENERAL.—The Secretary concerned is
 16 authorized to enter into contracts under this section
 17 for the sale of forest products in a wildland/urban
 18 interface area identified under section 101 for the
 19 purpose of reducing hazardous fuels buildups in the
 20 area.

21 (2) INCLUSION OF FOREST MANAGEMENT
 22 PROJECTS.—Subject to paragraph (3), the Secretary
 23 concerned may require, as a condition of any sale of
 24 forest products referred to in paragraph (1), that
 25 the purchaser of such products undertake one or

1 more forest management projects in the wildland/
2 urban interface area.

3 (3) CONDITIONS ON INCLUSION.—The Sec-
4 retary concerned may include a forest management
5 project as a condition in a contract for the sale of
6 forest products referred to in paragraph (1) only
7 when the Secretary determines that—

8 (A) the forest management project is con-
9 sistent with the applicable land management
10 plan; and

11 (B) the objectives of the forest manage-
12 ment project can be accomplished most cost ef-
13 ficiently and effectively when the project is per-
14 formed as part of the sale contract.

15 (b) FINANCING AND SUPPLEMENTAL FUNDING.—

16 (1) FOREST MANAGEMENT CREDITS.—The fi-
17 nancing of a forest management project required as
18 a condition of a contract for a sale authorized by
19 subsection (a) shall be accomplished through the in-
20 clusion in the contract of a provision for amortiza-
21 tion of the cost of the forest management project
22 through the issuance of forest management credits
23 to the purchaser. Such forest management credits
24 shall offset the cost of the required forest manage-

1 ment project against the purchaser's payment for
2 forest products.

3 (2) USE OF APPROPRIATED FUNDS.—The Sec-
4 retary concerned may use appropriated funds to as-
5 sist the purchaser to undertake a forest management
6 project required as a condition of a contract author-
7 ized by subsection (a) if such funds are provided
8 from the resource function or functions that directly
9 benefit from the performance of the project and are
10 available from the annual appropriation for such
11 function or functions during the fiscal year in which
12 the sale is offered. The amount of assistance to be
13 provided for each forest management project shall be
14 included in the prospectus, and published in the ad-
15 vertisement, for the sale.

16 (c) DETERMINATION OF FOREST MANAGEMENT
17 CREDITS.—Prior to the advertisement of a sale authorized
18 by subsection (a), the Secretary concerned shall determine
19 the amount of forest management credits to be allocated
20 to each forest management project to be required as a con-
21 dition of the sale contract. A description of the forest man-
22 agement project, and the amount of the forest manage-
23 ment credits allocated to the project, shall be included in
24 the prospectus, and published in the advertisement, for the
25 sale.

1 (d) TRANSFER OF FOREST MANAGEMENT CRED-
2 ITS.—The Secretary concerned may permit a purchaser
3 that holds forest management credits earned by the pur-
4 chaser as part of a sale authorized by subsection (a), but
5 not used in connection with that sale, to transfer the forest
6 management credits to another sale authorized by sub-
7 section (a) if—

8 (1) the subsequent sale is also purchased by
9 that purchaser; and

10 (2) the sale parcel is located on Federal lands
11 under that Secretary's jurisdiction.

12 (e) TREATMENT OF FOREST MANAGEMENT CREDITS
13 AS MONEYS RECEIVED.—

14 (1) BUREAU OF LAND MANAGEMENT LANDS.—

15 In the case of Federal lands described in section
16 3(1)(A), all amounts earned by or allowed to any
17 purchaser of a sale authorized by subsection (a) in
18 the form of forest management credits shall be con-
19 sidered to be money received for purposes of title II
20 of the Act of August 28, 1937 (50 Stat. 875; 43
21 U.S.C. 1181f), the first section of the Act of May
22 24, 1939 (53 Stat. 753; 43 U.S.C. 1181f–1), or
23 other applicable law concerning the distribution of
24 receipts from the sale of forest products on such
25 lands.

1 (2) FOREST SYSTEM LANDS.—In the case of
2 Federal lands described in section 3(1)(B), all
3 amounts earned by or allowed to any purchaser of
4 a sale authorized by subsection (a) in the form of
5 forest management credits shall be considered to be
6 money received for purposes of the sixth paragraph
7 under the heading “FOREST SERVICE” in the Act
8 of May 23, 1908 (35 Stat. 260; 16 U.S.C. 500) and
9 section 13 of the Act of March 1, 1911 (36 Stat.
10 963; commonly known as the Weeks Act; 16 U.S.C.
11 500).

12 (f) COST CONSIDERATIONS.—Because of the strong
13 concern for the safety of human life and property and the
14 protection of water quality, air quality, and wildlife habi-
15 tat, a sale authorized by subsection (a) shall not be pre-
16 cluded because the costs of the sale may exceed the reve-
17 nues derived from the sale, nor shall such sales be consid-
18 ered in any calculations concerning the revenue effects of
19 the forest products sales program for the Federal lands
20 or units of the Federal lands.

21 (g) OTHER REQUIREMENTS.—Nothing in this title
22 shall be construed to require or authorize any alteration
23 in the procedures or requirements for sales of forest prod-
24 ucts otherwise authorized by law, including the applicable
25 provisions of the small business set-aside program.

1 **SEC. 103. MONITORING REQUIREMENTS.**

2 The Secretary concerned shall monitor the prepara-
3 tion and offering of contracts, and the performance of for-
4 est management projects, pursuant to section 102 to de-
5 termine the effectiveness of such contracts and forest
6 management projects in achieving the purpose of this Act.

7 **SEC. 104. REPORTING REQUIREMENTS.**

8 (a) ANNUAL REPORT.—Not later than 90 days after
9 the end of each full fiscal year in which contracts are en-
10 tered into under section 102, the Secretary concerned shall
11 submit to the congressional committees a report, which
12 shall provide for the Federal lands within the jurisdiction
13 of the Secretary concerned the following:

14 (1) A list of the wildland/urban interface areas
15 identified on or before September 30 of the previous
16 fiscal year pursuant to section 101.

17 (2) A summary of all contracts entered into,
18 and all forest management projects performed, pur-
19 suant to section 102 during the preceding fiscal
20 year;

21 (3) A discussion of any delays in excess of three
22 months encountered during the preceding fiscal year,
23 and likely to occur in the fiscal year in which the re-
24 port is submitted, in preparing and offering the
25 sales, and in performing the forest management
26 projects, pursuant to section 102.

1 (4) The results of the monitoring required by
2 section 103 of the contracts authorized, and the for-
3 est management projects performed, pursuant to
4 section 102.

5 (5) Any anticipated problems in the implemen-
6 tation of this title.

7 (b) **FOUR YEAR REPORT.**—The fourth report pre-
8 pared by the Secretary concerned under subsection (a)
9 shall contain, in addition to the matters required by sub-
10 section (a), the following:

11 (1) An assessment by the Secretary concerned
12 regarding whether the contracting authority pro-
13 vided in section 102 should be reauthorized beyond
14 the period specified in section 105(a).

15 (2) If reauthorization is warranted, such rec-
16 ommendations as the Secretary concerned considers
17 appropriate regarding changes in such authority to
18 better achieve the purpose of this Act.

19 **SEC. 105. TERMINATION OF AUTHORITY.**

20 (a) **TERMINATION DATE.**—The authority of the Sec-
21 retary concerned to offer sales of forest products pursuant
22 to section 102, and to require the purchasers of such prod-
23 ucts to undertake forest management projects as a condi-
24 tion of such sales, shall terminate at the end of the five-

1 fiscal year beginning on the first October 1st occurring
2 after the date of the enactment of this Act.

3 (b) EFFECT ON EXISTING SALES.—Any contract for
4 a sale of forest products pursuant to section 102 entered
5 into before the end of the period specified in subsection
6 (a), and still in effect at the end of such period, shall re-
7 main in effect after the end of such period pursuant to
8 the terms of the contract.

9 (c) EFFECT ON EXISTING FOREST MANAGEMENT
10 CREDITS.—If any forest management credits from a sale
11 of forest products pursuant to section 102 are not used
12 before the end of the period specified in subsection (a),
13 and no law providing authority to offer sales pursuant to
14 section 102 after such period is enacted by Congress, such
15 credits may be used after such period in any sale of forest
16 products that is authorized by another law, is purchased
17 by the purchaser of the sale in which the credits were
18 earned, and is conducted by the Secretary concerned who
19 had jurisdiction over the sale in which the credits were
20 earned.

1 **TITLE II—FIRE DANGER REDUC-**
2 **TION BY REMOVAL OF**
3 **GRASSES AND FORBS**

4 **SEC. 201. REMOVAL OF EXCESS LEVELS OF GRASSES AND**
5 **FORBS.**

6 (a) CONTRACTING AUTHORITY.—Whenever a county
7 commission or other unit of local government certifies to
8 the Secretary concerned that there is a danger of fire in
9 a wildland/urban interface area as a result of excessive lev-
10 els of grasses and forbs on Federal lands in the area and
11 requests the removal of the excessive grasses and forbs,
12 the Secretary is authorized and encouraged to enter into
13 contracts with livestock operators or other parties for the
14 removal of the excessive grasses and forbs.

15 (b) REMOVAL METHODS.—In the case of a contract
16 under subsection (a) with a livestock operator, the opera-
17 tor shall use grazing to remove the excessive grasses and
18 forbs. In the case of contracts with other persons, mechan-
19 ical means, such as discing or mechanical mowing, shall
20 be used.

21 (c) AUTHORIZATION OF APPROPRIATIONS.—There
22 are authorized to be appropriated such sums as are nec-
23 essary to carry out this section.

1 **TITLE III—MISCELLANEOUS**
2 **PROVISIONS**

3 **SEC. 301. REGULATIONS.**

4 Not later than 180 days after the date of the enact-
5 ment of this Act, the Secretary concerned shall prescribe
6 such regulations as are necessary and appropriate to im-
7 plement this Act.

8 **SEC. 302. AUTHORIZATION OF APPROPRIATIONS.**

9 There are authorized to be appropriated for each of
10 the first five fiscal years beginning after the date of the
11 enactment of this Act such sums as may be necessary to
12 carry out this Act.

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